

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

PATRICK A. FITZGERALD,

Plaintiff,

Case No. 3:06 CV 119

-vs-

O R D E R

MICHELE EBERLIN,

Defendant.

KATZ, J.

This action was transferred to the United States Magistrate for a Report and Recommendation. The Magistrate filed her Report and Recommendation on May 8, 2007. No objections have been filed and the Court has reviewed said Report and Recommendation, the findings and recommendations contained therein, and the record in this case. The findings and recommendations of the Magistrate are well taken and there are no legal points which would be arguable on their merits in an appeal of this case. Furthermore, the Court has determined sua sponte that no certificate of probable cause should issue in this case as any appeal would lack substantial merit.

It is therefore,

ORDERED, that the Report and Recommendation be, and hereby is, adopted as the Order of this Court. Petition for writ of habeas corpus denied.

FURTHER ORDERED that under 28 U.S.C. §1915(a), an appeal of this case should not proceed *in forma pauperis* as it would not be taken in good faith.

FURTHER ORDERED that a motion for certificate of probable cause under 28 U.S.C. §2253 is hereby denied *sua sponte*.

S/ David A. Katz
DAVID A. KATZ
U. S. DISTRICT JUDGE